UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

December 20, 2010

Mr. William F. Adams
State Design Engineer
ATTN: Ms Alfedo Acoff
Alabama Department of Transportation
1409 Coliseum Boulevard
Montgomery, Alabama 36130

SUBJECT: EPA Review of Helena Bypass
Draft Environmental Impact Statement (DEIS)
From CR-52 in Helena to SR-261 near Bearden Road
Shelby County, Alabama.
CEQ No: 20100430

Dear Mr. Adams:

Pursuant to Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act (NEPA), EPA Region 4 has evaluated the consequences of constructing, a new 3.8 mile multi-lane, limited access facility that bypasses historic downtown Helena beginning on Shelby County Road 52 and ending on Valleydale Road in Shelby County, Alabama. The project is expected to cost between $24.7 and $21.1 million.

According to the DEIS, the purpose of the proposed bypass is to provide access to the identified growth areas for business and residential development north of Helena that are currently inaccessible by the existing transportation network. In addition, the bypass should improve congestion on some of the existing networks (i.e., SR 261 will operate at a Level of Service "E" with the bypass instead of LOS 'F' in the year 2030).

The DEIS examines a no-build alternative and four build alternatives within two distinct corridor. Each corridor includes two alternative locations for tying to County Route 52 (Corridor 1- Alts. I, I-A; Corridor 2 - Alts. II and II-A). The proposed bypass alternatives also contain a five-lane section that will connect to State Route 261 and then transition to a four-lane divided section for the remainder of the corridor. A preferred alternative is not identified in the DEIS.

The DEIS describes impacts to environmentally important resources. As proposed, the bypass may impact up to 1.72 acres of wetlands, 0.21 acres of waters of the U.S., 7 stream crossings, 2 303(d) listed waterbodies (Cahaba River and Buck Creek), 2.6 acres in the 100-year floodplains, 8 residential and 3 business relocations, and 6 noise sites prior to residential buyouts. The proposed project and its associated planned future

development may also adversely affect minority and low-income populations within the project area. The only project alternatives evaluated in the DEIS that directly impact area residents (i.e., Alts II and IIA) will likely result in disproportionate impacts to environmental justice populations (i.e., relocations).

Based on our review of the DEIS, EPA concurs with City of Helena and Alabama Department of Transportation's assessment that the proposed bypass would facilitate growth by making previously undeveloped areas around Helena more accessible (Figures 6.01-1 and 6.01-2). Future land use maps for the area show undeveloped areas along the Cahaba River, Buck Creek and area streams being converted primarily to residential developments along with some agricultural and commercial land uses. This could exacerbate development-related 303(d) impairments for Buck Creek and Cahaba River (pathogens for Buck Creek; nutrients, siltation, pathogens, and habitat alterations for the Cahaba River). The facilitation of new development in this area will also increase impervious surface coverage and decrease vegetation, thus altering stormwater and stream flows in the area. ALDOT is aware of the need to strictly adhere to best management practices detailed in a letter from the U.S. Fish and Wildlife Service in an effort to help protect the area's water quality.

Given the potential for additional development impacts to currently impaired and sensitive aquatic resources, EPA has assigned this project an EC-2 rating - we have environmental concerns and additional information is requested. Specifically, further efforts are requested to address impacts to aquatic resources and low-income and minority communities. See the attached detailed comments.

Thank you for the opportunity to comment on this proposed action. We look forward to working with FHWA and ALDOT, to address these identified concerns. If we can be of further assistance, please contact Ms. Ntale Kajumba of the NEPA Program Office at (404) 562-9620 or kajumba.ntale@epa.gov, Rosemary Hall of the Wetlands Regulatory Section at (404) 562- 9846 or hall.rosemary@epa.gov.

Sincerely,

Heinz Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Mr. Joe McInnes
Mr. Mark Bartlett, P.E.

EPA Comment Reviews on the DEIS for Helena Bypass
From SR 52 in Helena to SR 261 near Bearden Road

Alternatives - From the descriptions of purpose, need, and project benefits, it appears that a primary cause of traffic delays in Helena is two rail crossings at street level, and that there would only be one level of difference in service ('E' vs. 'F') between the 2030 projections with and without the bypass.

Recommendation: The Final EIS should indicate whether an alternative was evaluated that involves routing rail and street traffic to different grades at the two problematic crossings. It should also indicate why this alterative would or would not meet the project's purpose and need.

Wetlands, Streams and Floodplains: EPA appreciates the plan to span Buck Creek and its floodplain in an effort to minimize project-related impacts. Impacts to other streams, wetlands, and their associated floodplains should also be minimized with bridging. EPA also appreciates that vegetated buffers will be maintained adjacent to streams that directly discharge into the Cahaba River. However, it is unclear what the qualifier "to the extent practical" means.

Recommendation 1: The FEIS should include a more detailed explanation of what the qualifier "to the extent practical" means. In addition, other streams and wetlands (not just direct tributaries to the Cahaba) should also have buffers similar to those described for the Cahaba River/Buck Creek Conservation Overlay District, particularly given the existing impairments of Buck Creek and the Cahaba River that would likely be exacerbated by the proposed development.

The DEIS identifies two impaired water bodies that do not meet water quality standards or their designated uses and the status of development of Total Maximum Daily Loads (TMDLs) for each waterway in the study area. EPA notes that there are development-related 303(d) impairments for both Buck Creek and the Cahaba River (pathogens for Buck Creek; nutrients, siltation, pathogens, and habitat alterations for the Cahaba River). Based on our assessment, the best management practices (BMPs) described in the DEIS may not be sufficient to avoid contributing to those impairments.

Recommendation 2: EPA recommends that ALDOT and FHWA consider more protective measures and design features (i.e., permeable pavement) that could result in significant water quality, storm-flow delay, as well as traffic safety benefits. These measures should be discussed and included in the FEIS. In addition, there should be information regarding the entities that will be responsible for their implementation and oversight.

In the DEIS, stream impacts have been quantified by converting reach length to acreage. In addition, intermittent streams on site are described as offering "only moderate habitat function due to their intermittent classification" (p.41).

Recommendation 3: EPA recommends that stream length should be used in the main body of the FEIS. This is a better metric for conveying and assessing project-related stream impacts. The FEIS should also eliminate the statement indicating that intermittent streams only offer moderate habitat function due to their classification because this is not an appropriate characterization of these streams. Intermittent streams have important functions.

Aquatic Resource Mitigation: The main body of the DEIS indicates that compensatory mitigation is part of the sequencing process, but it does not does not describe potential wetland and /stream mitigation opportunities within the watershed. If this information is referenced elsewhere in the document, please indicate where.

Recommendation: The DEIS should include a draft mitigation plan to compensate for predicted wetland and stream losses that remain following efforts to avoid and minimize such impacts. The compensatory mitigation proposed should comply with the "2008 Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" which is better known as the 2008 Mitigation Rule (the Rule). All former Regulatory Guidance Letters (RGL) and Guidance (e.g., Mitigation Banking Guidance, 1995) with the exception of the 1990 Mitigation Memorandum of Agreement have been subsumed by the 2008 Mitigation Rule. The FEIS should include information regarding the basic approach that will be used to address issues related to compensatory mitigation (e.g., use of a mitigation bank, assessment methodology, and baseline information). The compensatory mitigation approach should also address temporal losses, as well as all three types of loss for streams.

Noise: A noise screening analysis was conducted to identify sensitive receptors. The Noise Impacts Section (6.09 and Appendix C) explains the criteria used to determine noise impacts, abatement criteria, and potential abatement measures. Table 6.09 –Noise impact Location and Summary indicates that of 29 facilities identified within 500 feet of the nearest travel lane, 4 sites approach or exceed the Noise Abatement Criteria (NAC) prior. It does not indicate whether any of the 29 sites would experience noise increases of at least 10 dBA. The DEIS considered abatement strategies including: construction of noise barriers, acquisition of property, alternation of alignments, and noise insulation. ALDOT noise impacts and abatement assessment resulted in the finding that there are "no feasible and reasonable noise abatement measures that will eliminate or reduce noise impacts at the occupied facilities that are expected to have noise impacts."

Recommendations: EPA recommends that table entitled, "*Detail of receptors which reach the NAC level in one or more alternative*" located in Appendix C, Page 7 be moved to the main body of the noise analysis (Section 6.09). In addition, section 6.09 should discuss any sites that may experience a perceived doubling of noise levels. This discussion should include information for such sites prior to relocation and post relocation.

Societal and Environmental Justice (EJ) (6.03) - According to the DEIS, no residential or business impacts are associated with Alternatives I and IA. However, several relocations (approximately 8 residential and 3 business) will be required should Alternative II or Alternative II-A be implemented. One minority neighborhood, the Starkey Street Neighborhood near the Quarry, will be impacted by Alternatives II and II-A (Figure 6.03-2). A small church with modular construction is also located in the neighborhood, but will not be directly impacted by the build alternatives. These alternatives will impact the southern portion of this neighborhood and three residences (including two mobile homes) will be displaced. While there would be displacees elsewhere along the project, the Starkey Street neighborhood is the only residential neighborhood impacted by the build alternatives. According to Figure 6.03-2, this neighborhood is already identified in Helena's Comprehensive Plan as an area of substandard housing.

The DEIS indicates that three residential displacees do not meet the criteria of Disproportionately High and Adverse Effect on Minority and Low-Income Populations. While EPA notes that the overall number of residential relocations associated with Alt II and IIA may appear relatively low (8), the Starkey Street neighborhood will experience a disproportionate share of the potential adverse impacts associated with this project. Based on the areas demographics, Helena has an overall minority population of only 6-7%, yet minority residents will experience a minimum of 37% (3/8) of the residential relocations impacts. Helena also has only 1.4% of the families living in poverty status, yet at least 2/8 (25%) of the project's displacees are low income. EPA also notes that Helena's comprehensive plan shows that in the future much of the residential area adjacent to Alternative II and IIA that contains the EJ populations is planned for industrial development.

Recommendation: EPA recommends that every effort be made to ensure that minority and low income populations within the project area are actively and meaningfully involved in the decision-making process including the identification of appropriate mitigation for community-related impacts. The outcomes of meetings and special efforts to target these EJ communities should be summarize and documented in the FEIS. Given that the area within the vicinity of the Starkey Street Neighborhood appears to be planned for future industrial development, the FEIS should discuss Helena or Shelby County's comprehensive strategy for working with these EJ communities to ensure that they are engaged in the process and treated equitably.

Air Quality: The proposed Helena Bypass Project is located in Shelby County, Alabama which is currently designated a nonattainment area for Particulate Matter (PM 2.5) and a maintenance area for Ozone (0_3). According to the DEIS, the Helena Bypass Corridor Study is included in the Birmingham Transportation Improvement Program (TIP) approved on January 10, 2007. However, EPA notes that Birmingham has since completed a new TIP (dated December 8, 2010). The DEIS also indicates that a PM2.5 Hot Spot Checklist was completed for this project and that the Birmingham Interagency Consultation Team agreed the proposed project does not pose air quality concerns.

Recommendation: The FEIS should indicate whether this project is in the most recent TIP and Long Range Transportation Plan. The air quality section of the DEIS should reference the Air Quality Report located in Appendix B regarding the PM2.5 hotspot checklist that was completed for the Helena bypass project. EPA notes that the air quality sections of the DEIS do not address air toxics.